

THE HONORABLE RICARDO S. MARTINEZ

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RUI MAO, QINGBIN BU, RUI FAN,
ZHEN FAN, BING HUANG, WENLAN
HUANG, SHUANGYAN JIA, TIEYIN LI,
HUAJIN LIU, ZHONGFA LIU,
XINYUAN MU, ZHICUI SHAN, YAO
SONG, HAILAN TANG, PEILIN WU,
HAITAO XU, XIUQIN YANG, ZHAOHUI
YE, JUNHONG ZHANG, ZHONGMEI
ZHAO, DIANYI ZHOU, JIAYIN ZHU,
XIAOYU ZHU, LIXIN CHEN, WEIYI
DAI, ZHE FENG, JIUYI GENG, YUE GU,
MIN GUO, QING HUANG, HESHENG
LEI, CHUNFENG LI, DANLI LI, XINKAI
LI, RUIPING TAO, MANSHAN TONG,
MING-JEN TSAI, YIPENG WU, ZHIJUN
WU, CHEN XUAN, XIAOSHU YANG,
and XIAOLIN YIN,

Plaintiffs,

v.

U.S. BANK NATIONAL ASSOCIATION;
QUARTZBURG GOLD, LP; ISR
CAPITAL, LLC; IDAHO STATE
REGIONAL CENTER, LLC; and SIMA
MUROFF,

Defendants.

NO. 2:16-cv-01113-RSM

**JOINT STATUS REPORT AND
STIPULATED MOTION AND ORDER
TO STRIKE CASE SCHEDULE AND
TRIAL DATE**

1 All parties to this action (the “Parties”) hereby respectfully submit this Joint Status Report
2 and Stipulated Motion to Strike Case Schedule and Trial Date. As set forth herein, the Parties
3 stipulate to and jointly request that the current case schedule and trial date be stricken, with the
4 Parties to submit a further joint status report within ninety days. Good cause, including judicial
5 economy and efficiency for the parties, supports this stipulated motion.

6 Case Background

7 This case and its companion case (*Chi Chen et al. v. U.S. Bank National Association et al.*,
8 Case No. 2:16-cv-1109-RSM, and *Mao et al. v. U.S. Bank National Association et al.* (Case No.
9 2:16-cv-1113-RSM), arise from an EB-5 immigration project and investment known as
10 Quartzburg Gold, L.P. (“Quartzburg”).¹ The EB-5 program is a legal mechanism under which
11 foreign nationals can apply for immigration preferences by making investments in job-creating
12 enterprises in the United States. Plaintiffs are foreign citizens who deposited \$500,000 each to
13 participate in this EB-5 project. The “Quartzburg Defendants” include Quartzburg (the limited
14 partnership into which the Plaintiffs would invest); ISR Capital, LLC (the general partner of
15 Quartzburg); Sima Muroff (the principal of ISR Capital, LLC); and Idaho State Regional Center,
16 LLC (an affiliated entity that was the designated regional center for the Quartzburg EB-5
17 investment). Defendant U.S. Bank National Association was the escrow agent with respect to the
18 Quartzburg escrow account into which Plaintiffs deposited their funds.

19 Plaintiffs’ immigration petitions associated with their participation in Quartzburg were
20 initially denied by United States Citizenship and Immigration Services (“USCIS”). As discussed
21 below, a lawsuit was successfully waged against USCIS by a group of investors, including many
22 Plaintiffs, leading to a remand for further action by the government, which is currently pending.

23 Meanwhile, cases that were brought against Defendants remain pending before this Court.
24 Plaintiffs allege that their investment decision was procured by fraud and that their escrowed funds
25 were improperly and prematurely released to Quartzburg. Defendants deny all liability.

26 Initial Case Schedule and Trial Date

27 ¹ Substantively identical versions of this stipulated motion are being filed in both the *Chen* and the *Mao* cases.

1 On December 28, 2016, the Parties submitted their Joint Status Report and Discovery Plan.
2 See Dkt. 77 (*Chen*); Dkt. 70 (*Mao*). The Parties jointly anticipated that the cases would be ready
3 for trial by September 2018, estimated the trials to require twenty days, and requested that the trials
4 of the two companion cases be set consecutively. *Id.* On January 6, 2017, this Court entered
5 Orders Setting Trial Date and Related Dates (“Case Schedule”) in the two cases, setting September
6 10, 2018 as the trial date in *Chen* and October 1, 2018 as the trial date in *Mao*. See Dkt. 78 (*Chen*);
7 Dkt. 72 (*Mao*).

8 Subsequent Events

9 Shortly after some initial discovery commenced, several subsequent events occurred that
10 caused the parties to slow the pace of discovery and associated expense, particularly including the
11 following.

12 *USCIS Litigation.* On March 10, 2017, the United States District Court for the District of
13 Columbia issued a pertinent ruling (Dkt. 104) in the ongoing litigation *John Doe et al. v. USCIS*,
14 (D.D.C. Case No. 1:15-cv-00273) (the “USCIS Litigation”). Like the Plaintiffs in the cases
15 pending before this Court, the plaintiffs in the USCIS Litigation are foreign citizens seeking
16 conditional permanent residence in the U.S. as a result of their participation in the Quartzburg EB-
17 5 program. Indeed, some of the plaintiffs in the USCIS Litigation are also Plaintiffs in the cases
18 before this Court. The plaintiffs in the USCIS Litigation had challenged the decision of USCIS to
19 deny their immigration petitions under the EB-5 program as arbitrary and capricious, not supported
20 by substantial evidence, and beyond the scope of USCIS’s statutory authority. The Court in the
21 USCIS Litigation issued a ruling in plaintiffs’ favor, granting-in-part the plaintiffs’ challenges to
22 the denials of their immigration petition, and remanding the issue to USCIS for further
23 consideration. This ruling in the USCIS Litigation further raised the possibility that the individuals
24 who participated in the Quartzburg EB-5 investment offering could ultimately obtain approvals of
25 their immigration petitions, which could significantly impact the cases pending before this Court.
26 The USCIS Litigation remains pending and USCIS has re-opened the immigration petitions of the
27 foreign investors in Quartzburg and is reevaluating the petitions (“USCIS Remand”). This process

has been ongoing over the last nine months. It is currently anticipated that USICS will issue new decisions following remand in approximately the early Spring of 2018. *See* USCIS Litigation, Dkt. 124.

SEC Action. In addition, on April 28, 2017, the Securities and Exchange Commission (“SEC”) filed a Complaint against two of the Quartzburg Defendants (ISR Capital, LLC and Sima Muroff) and certain other parties. *See generally SEC v. Muroff et al.* (District of Idaho Case No. 1:17-cv-00180) (the “SEC Action”). The defendants in the SEC Action entered into consent judgments concurrently with the filing of the Complaint. Final judgments were entered in May 2017. The judgments required certain actions of the defendants and imposed certain obligations pertaining to Quartzburg and affiliated entities, including the appointment of an Independent Manager as well as a separate Monitor. *See* SEC Action, Dkt. 6. These matters are also ongoing.

Joint Request to Strike Case Schedule

The Parties hereto have believed and continue to believe that events occurring in the related proceedings, including the USCIS Litigation, USCIS Remand, and SEC Action could materially impact the parties’ claims and defenses, and the procedural posture of the cases before this Court. For example, if the ultimate result of the USCIS Litigation and/or USCIS Remand were that the immigration petitions of the Quartzburg investor-plaintiffs were approved, that could have a very significant impact on the claims being asserted in the cases before this Court.

As a result, during much of 2017, the Parties agreed amongst themselves to pause ongoing discovery to avoid potentially needless burden and expense while the USCIS Litigation and related matters were proceeding. The Parties entered into a series of informal stays, from May through December, to allow further progress in the related matters. The Parties have further agreed to continue to hold off on discovery and to submit this stipulated motion. The Parties believe that, in light of the potential material impacts of the related matters, continuing to hold off on further discovery for the time being remains appropriate and in the best interests of the Parties. The Parties also agree that the current Case Schedule and trial date is no longer feasible or appropriate given the events that have occurred since the Case Schedule was established. In light of the current

1 uncertainty about the timing of other related matters, the Parties are not in a position at this moment
2 to propose or present their positions as to a new case schedule, but anticipate being in a position
3 to do so within ninety days.

4 Accordingly, for the reasons set forth herein and for purposes of efficiency for the Parties
5 and judicial economy, the Parties stipulate to and jointly request that the current Case Schedule
6 and trial date be stricken, with the Parties to submit a further joint status report and new proposed
7 case schedule and trial date within ninety days.

1 Stipulated and Respectfully Submitted this 28th day of December, 2017.

2 /s/ Shawn Larsen-Bright

3 Peter Ehrlichman, WSBA #6591
4 Shawn Larsen-Bright, WSBA #37066
5 Dorsey & Whitney LLP
6 701 Fifth Avenue, Suite 6100
7 Seattle, WA 98104-7043
8 (206) 903-8800
9 ehrlichman.peter@dorsey.com
10 larsen.bright.shawn@dorsey.com
11 *Attorneys for Defendant U.S. Bank National*
12 *Association*

/s/ Michael Black (per email authorization)

Michael Black, *admitted pro hac vice*
Rita M. Cornish, *admitted pro hac vice*
April M. Medley, *admitted pro hac vice*
Parr Brown Gee & Loveless
101 South 200 East, Suite 700
Salt Lake City, UT 84111
mblack@parrbrown.com
rcornish@parrbrown.com
amedley@parrbrown.com
and
Lawrence Carl Locker, WSBA #15819
Steven O. Fortney, WSBA # 44704
Summit Law Group
315 Fifth Avenue South, Suite 1000
Seattle, WA 98104-2682
(206) 676-7000
larryl@summitlaw.com
stevef@summitlaw.com
Attorneys for Plaintiffs

14 /s/ Eric Swartz (per email authorization)

15 Eric B. Swartz, *admitted pro hac vice*
16 Jones & Swartz PLLC
17 623 W. Hays Street
18 Boise, ID 83702
19 (208) 489-8989
20 eric@jonesandswartzlaw.com
21 and

22 Thomas M. Brennan, WSBA #30662
23 P.O. Box 1384
24 Edmonds, WA 98026
25 (425) 967-3550
26 tom@brennanlegalpllc.com

27 *Attorneys for Defendants Quartzburg Gold,*
LP, ISR Capital LLC, Idaho State Regional
Center, LLC, and Sima Muroff

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. The case schedule and trial date in this case are hereby stricken. The Parties are directed to submit a further joint status report together with a proposed case schedule within ninety (90) days of the date of this Order.

Dated this 2 day of January 2018.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE